

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

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Date: October 11, 2016

Legend

Trust =

Initial Debtors =

Remaining Debtors =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

Date7 =

Date8 =

Date9 =

Date10 =

m =

Dear

This responds to a letter dated April 20, 2016, and subsequent correspondence submitted on behalf of Trust, requesting a ruling under § 301.7701-4(d) of the Procedure and Administration Regulations.

FACTS

The information submitted states that Initial Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court on Date1. Remaining Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court on Date2. The bankruptcy cases of Initial Debtors and Remaining Debtors (Debtors) were consolidated and jointly administered. On Date3, Debtors submitted to the Bankruptcy Court the Fourth Amended Joint Chapter 11 Plan of Reorganization (modified Date4) and a disclosure statement related to that plan of reorganization (modified Date4). On Date5, Debtors submitted to the Bankruptcy Court the Second Modified Fourth Amended Joint Chapter 11 Plan of Reorganization. On Date6, the Bankruptcy Court approved the Plan of Reorganization. On Date7, Trust was established effective Date8 and approved by the Bankruptcy Court to facilitate the liquidation of the estate. The initial term of Trust was for m years ending on Date9. The Bankruptcy Court extended the term of Trust to Date10.

Pursuant to the provisions of the trust agreement, Trust was created for the purpose of liquidating the assets of Trust, with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with,

the liquidating purpose of Trust. Trust is not permitted to receive or retain cash in excess of a reasonable amount to meet claims and contingent liabilities (including disputed claims) or to maintain the value of the assets during liquidation. Cash not available for distribution and cash pending distribution is to be held in demand and time deposits, such as short term certificates of deposit, in banks or other savings institutions, or other temporary, liquid assets such as Treasury bills. Such investments must have a maturity date of six months or less. Trust is required, under the terms of Trust, to distribute to the beneficiaries of Trust at least annually its net income and all net proceeds from the sale of Trust's assets, except that Trust may retain an amount of net proceeds or net income reasonably necessary to maintain the value of the property or to meet claims or contingent liabilities.

Trust provides that the beneficiaries of Trust will be treated as the grantors and deemed owners of Trust. It further provides that the parties will value all assets transferred to Trust consistently and use such values for all federal income tax purposes.

Trust provides that the trustee of Trust shall file tax returns as a grantor trust pursuant to § 1.671-4(a) of the Income Tax Regulations.

Trust, consistent with the requirements set out in Rev. Proc. 94-45, 1994-2 C.B. 684, provides that the transfer of Trust assets to Trust will be treated for all federal tax purposes as a deemed transfer by Debtor to the beneficiaries followed by a deemed transfer by the beneficiaries to Trust.

Trust further represents that, from its establishment, Trust has been formed and operated consistent with the conditions set forth in Rev. Proc. 94-45.

Trust represents that certain developments, generally beyond the control of the trustee of Trust, have occurred that require additional time and effort to facilitate the recovery of certain remaining trust assets and to complete the liquidation of the Trust.

Under Article III of the trust agreement for Trust, the initial term of Trust may be extended for a finite period if necessary to liquidate Trust assets or for other good cause, upon the motion by a party in interest and approval by the Bankruptcy Court, pursuant to the terms set forth in the Plan on or prior to the date of termination, provided that the Litigation Trustee receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of Trust as a grantor trust.

LAW AND ANALYSIS

Section 671 of the Internal Revenue Code provides that where it is specified in subpart E that the grantor or another person shall be treated as the owner of any portion of a trust, there then shall be included in computing the taxable income and credits of the

grantor or the other person those items of income, deductions, and credits against tax of the trust that are attributable to that portion of the trust to the extent that such items would be taken into account under chapter 1 of the Code in computing taxable income or credits against the tax of an individual.

Section 1.671-4(a) provides that, except as provided in § 1.671-4(b)(1) and (2), items of income, deduction, and credit attributable to any portion of a trust which, under the provisions of subpart E (§ 671 and following), part I, subchapter J, chapter 1 of the Code, are treated as owned by the grantor or another person should not be reported by the trust on Form 1041, U.S. Income Tax Return for Estates & Trusts, but should be shown on a separate statement attached to that form.

Section 677(a) provides, in part, that the grantor shall be treated as the owner of any portion of a trust, whether or not the grantor is treated as such owner under § 674, whose income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a non-adverse party, or both, may be (1) distributed to the grantor or the grantor's spouse; or (2) held or accumulated for future distribution to the grantor or the grantor's spouse.

Section 301.7701-4(d) provides that certain organizations which are commonly known as liquidating trusts are treated as trusts for purposes of the Internal Revenue Code. An organization will be considered a liquidating trust if it is organized for the primary purpose of liquidating and distributing the assets transferred to it, and if its activities are all reasonably necessary to, and consistent with, the accomplishment of that purpose. A liquidating trust is treated as a trust for purposes of the Code if it is formed with the objective of liquidating particular assets and not as an organization having as its purposes the carrying of a profit-making business which normally would be conducted through business organizations classified as corporations or partnerships. However, if the liquidation is unreasonably prolonged or if the liquidation purpose becomes so obscure by business activities that the declared purpose of liquidation can be said to be lost or abandoned, the status of the organization will no longer be that of a liquidating trust.

Rev. Proc. 94-45 provides the conditions under which the Service will consider issuing advance rulings classifying certain trusts as liquidating trusts under § 301.7701-4(d).

Section 3.06 of Rev. Proc. 94-45 provides that the trust instrument must contain a fixed or determinable termination date that is generally not more than five years from the date of creation of the trust and that is reasonable based on all the facts and circumstances. If warranted by the facts and circumstances, provided for in the plan and trust instrument, and subject to the approval of the Bankruptcy Court with jurisdiction over the case upon a finding that the extension is necessary to the liquidating purpose of the trust, the term of the trust may be extended for a finite term based on its particular facts

and circumstances. The trust instrument must require that each extension be approved by the court within 6 months of the beginning of the extended term.

CONCLUSIONS

Based on the information submitted and the representations made, we conclude that the conditions of Rev. Proc. 94-45 have been satisfied. Accordingly, based on the representations made and the information submitted, we rule that extension of Trust's term to Date10 will not adversely affect the classification of Trust as a liquidating trust under § 301.7701-4(d). Furthermore, based on the facts and circumstances of this case and on the representations made, we rule that the extension of Trust's term to Date10 will not adversely affect the classification of Trust as a grantor trust for federal income tax purposes.

Except as expressly set forth above, no opinion is expressed or implied concerning the federal income tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted as part of the ruling request, it is subject to verification on examination.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes